

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

11 CV. 5278

Jacqueline WADE

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

**COMPLAINT
FOR EMPLOYMENT
DISCRIMINATION**

The New York City Department
of Education

Jury Trial: ☒ Yes ☐ No
(check one)

and City of New York

(In the space above enter the full name(s) of the defendant(s).
If you cannot fit the names of all of the defendants in the space
provided, please write "see attached" in the space above and
attach an additional sheet of paper with the full list of names.
Typically, the company or organization named in your charge
to the Equal Employment Opportunity Commission should be
named as a defendant. Addresses should not be included here.)

This action is brought for discrimination in employment pursuant to: (check only those that apply)

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Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

NOTE: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.

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Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 - 634.

NOTE: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.

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Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 - 12117.

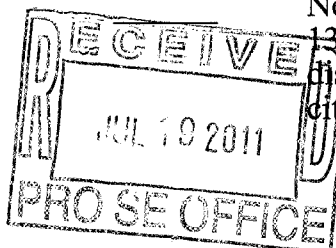
NOTE: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue Letter from the Equal Employment Opportunity Commission.

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New York State Human Rights Law, N.Y. Exec. Law §§ 290 to 297 (age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status).

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New York City Human Rights Law, N.Y. City Admin. Code §§ 8-101 to 8-131 (actual or perceived age, race, creed, color, national origin, gender, disability, marital status, partnership status, sexual orientation, alienage, citizenship status).



I. Parties in this complaint:

- A. List your name, address and telephone number. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name Jacqueline WADZ
 Street Address 163 East 104 Street, 4E
 County, City New York
 State & Zip Code New York 10029
 Telephone Number 646-662-1808

- B. List all defendants' names and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant Name The New York City Department of Education of New York
 Street Address City of New York
 County, City Carve of office of Corporation Counsel
 State & Zip Code 100 Church Street 4 Fl
 Telephone Number New York NY 10007

- C. The address at which I sought employment or was employed by the defendant(s) is:

Employer I.S. 109 The Jean Morris School
 Street Address 213-10 92 Avenue
 County, City Queens
 State & Zip Code New York
 Telephone Number 718-465-0651

II. Statement of Claim:

State as briefly as possible the facts of your case, including relevant dates and events. Describe how you were discriminated against. If you are pursuing claims under other federal or state statutes, you should include facts to support those claims. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. The discriminatory conduct of which I complain in this action includes: (check only those that apply)

☐ Failure to hire me.
☒ Termination of my employment.
☒ Failure to promote me.
☒ Failure to accommodate my disability.
☒ Unequal terms and conditions of my employment.

☒ Retaliation.

Other acts (specify): Sexual Harassment

Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.

B. It is my best recollection that the alleged discriminatory acts occurred on: _____
Date(s)

C. I believe that defendant(s) (check one):

yes is still committing these acts against me.
_____ is not still committing these acts against me.

D. Defendant(s) discriminated against me based on my (check only those that apply and explain):

- ☒ race _____ ☒ color _____
- ☒ gender/sex _____ ☐ religion _____
- ☒ national origin _____
- ☒ age. My date of birth is Aug 12, 1961 (Give your date of birth only if you are asserting a claim of age discrimination.)
- ☒ disability or perceived disability, Concussion (specify)

E. The facts of my case are as follow (attach additional sheets as necessary):

I was discriminated against on the basis of race and sex. I was retaliated against for complaining about work place harassment and subsequently terminated in violation of Title VII of the Civil Rights Act of 1964, as amended. I was also discriminated because of Age in violation of the Age Discrimination in Employment Act of 1967. Additionally I was denied health benefits, harassed and terminated by Respondent because of a disability or perceived disability in violation of the Americans with Disabilities Act 1991.

Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, the New York State Division of Human Rights or the New York City Commission on Human Rights.

III. Exhaustion of Federal Administrative Remedies:

A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding defendant's alleged discriminatory conduct on: not sure _____ (Date).

need to check record

B. The Equal Employment Opportunity Commission (*check one*):

 has not issued a Notice of Right to Sue letter.
 X issued a Notice of Right to Sue letter, which I received on April 25, 2011 (Date).

Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.

C. Only litigants alleging age discrimination must answer this Question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding defendant's alleged discriminatory conduct (*check one*):

 X 60 days or more have elapsed.
 less than 60 days have elapsed.

IV. Relief:

WHEREFORE, plaintiff prays that the Court grant such relief as may be appropriate, including injunctive orders, damages, and costs, as follows: Back Pay Lost, Damages

and other

(Describe relief sought, including amount of damages, if any, and the basis for such relief.)

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 19 day of July, 2011.

Signature of Plaintiff

Address

Jaqueline Irby
163 East 104 St, 4B
NY NY 10029

Telephone Number

Fax Number (if you have one)

646-662-1808

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Jacqueline N. Wade**
163 East 104th Street, 4-E
New York, NY 10029

From: **New York District Office**
33 Whitehall Street
5th Floor
New York, NY 10004

☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

520-2010-01738

Austin F. Turner,
Investigator

(212) 336-3750**THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge

☒

The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.

☐

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☐

Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years before you file suit may not be collectible.**

On behalf of the Commission

Kevin Berry
Kevin J. Berry,
District Director

4/21/11

(Date Mailed)

Enclosures(s)

cc: **Michael Best, General Counsel**
NYC DEPARTMENT OF EDUCATION
52 Chambers Street
New York, NY 10007



Austin F. Turner
Investigator
Phone (212) 336-3750
Fax (212) 336-3624

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
New York District Office

33 Whitehall Street, 5th Floor
New York, NY 10004-2112
For General Information: (800) 669-4000
TTY: (800)-669-6820
District Office: (212) 336-3620
General FAX: (212) 336-3625

April 21, 2011

Jacqueline Wade
163 East 104th Street, Apt. 4E
New York, NY 10029

Re: Wade v. New York City Department of Education
EEOC Charge No.: 520-2010-01738

Dear Mrs. Wade:

The Equal Employment Opportunity Commission (hereinafter referred to as the "Commission"), has reviewed the above-referenced charges according to our charge prioritization procedures. These procedures, which are based on a reallocation of the Commission's staff resources, apply to all open charges in our inventory and call for us to focus our limited resources on those cases that are most likely to result in findings of violations of the laws we enforce.

In your charge against The New York City Department Education (hereinafter referred to as "Respondent"), you allege that you were discriminated against on the basis of your race and sex, and that you were retaliated against for complaining about workplace harassment and subsequently terminated in violation of Title VII of the Civil Rights Act of 1964, as amended. You also allege that you were discriminated against because of your age in violation of the Age Discrimination in Employment Act of 1967. Additionally, you allege that you were denied health benefits, harassed and terminated by the Respondent because of a disability in violation of the Americans with Disabilities Act of 1991.

The Respondent provided evidence showing that on January 11, 2008 a student complained to school administration about your egregious and inappropriate behavior. An additional student complained that you tried to coerce him into making a statement supporting your side of the story by threatening to fail him. On January 31, 2008 you were reassigned to the Teachers Reassignment Center in Queens, pending an investigation. The investigation conducted by the Office of Special Investigation, concluded October 10, 2008, substantiated the allegations and recommended appropriate disciplinary action be taken against you. You remained in the Reassignment Center pending disciplinary action by your principal. On May 27, 2009, after appealing the decision to the Community Superintendent, you were terminated by the Respondent for misconduct surrounding the January 1, 2008 event.

On November 7, 2008 you filed a complaint with the OEO, alleging that another teacher at the Reassignment Center exposed his buttocks to you. The investigation conducted by the OEO did

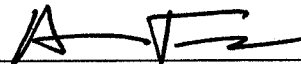
not substantiate your allegation. On January 20, 2009 you filed a complaint alleging that LaRaine Ward retaliated against you for your previous complaint of sexual harassment. An additional investigation by the OEO found that, while Ms. Ward did make offensive remarks, it was inconclusive that those remarks were connected to the filing of your previous complaint.

The evidence available showed that you began work for the Respondent on August 31, 2007 and that your health benefits were processed by your school's office the same day that you turned the form in (September 26, 2007). Additional evidence shows that when the benefits were processed the effective enrollment date in the benefits program was backdated to August 30, 2007, covering your entire period of employment. You applied for an accommodation on April 29, 2009, and on May 1, 2009 you were informed that the request was incomplete and were requested to provide additional information. On June 17, 2009 you were denied the accommodation request because of failure to provide the requested medical documentation.

Based upon an analysis of the information you submitted to us, the Commission is unable to conclude that the information establishes that a violation of Federal law on the part of the Respondent.

The Commission's processing of this charge has been concluded and its determination is final is final. Included with this letter is your Notice of Right to Sue. Following this dismissal, you may only pursue this matter by filing suit against the Respondents named in the charge within 90 days of receipt of said notice. Otherwise, your right to sue will be lost. Please contact me at the number provided above if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Austin Turner', is written over a horizontal line.

Austin Turner
Federal Investigator

Enc: Notice of Right to Sue

INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC

(This information relates to filing suit in Federal or State court under Federal law. If you also plan to sue claiming violations of State law, please be aware that time limits and other provisions of State law may be shorter or more limited than those described below.)

PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination Act (GINA), or the Age Discrimination in Employment Act (ADEA):

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge within 90 days of the date you receive this Notice. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/08 to 12/1/08, you should file suit before 7/1/10 -- not 12/1/10 -- in order to recover unpaid wages due for July 2008. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA, GINA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA, GINA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII, the ADA or GINA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.